IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5906 OF 2004

Sangeeta R. Kondiyal
(M/s. Hotel New Vinay) ..Petitioner
vs.
The Commissioner of Police
Solapur and anr. ...Respondents

Veena B. Thadani for the petitioner.
Ms. V.S. Mhaisapurkar, AGP.

CORAM: S.U. KAMDAR, J.

DATE : 23RD DECEMBER, 2005.

P.C. :

1. The present petition challenges the impugned order dated 22.6.2004 cancelling the orchestra licence granted to the establishment M/s. Hotel New Vinay, Solapur on the ground that there were late closures on three occasion i.e. on 2.1.2001, 13.10.2001 and 9.12.2001. In so far as the first breach of 2.1.2001 is concerned it does not survive in view of the fact that the licence is renewed on 5.7.2001. This court has in the case of K.V. Acharya vs. State of Maharashtra reported in

2000(2) ALL MR pg. 283 has held that once a licence is renewed the earlier breaches if could not be considered as ground for suspension. In so far as the other two breaches of late closure are concerned i.e. on 13.10.2001 and 9.12.2001 the learned counsel for the petitioner states that they have already undergone a punishment by virtue of suspension of licence for a period of 6.5.2002 to 14.8.2002 when the petitioner was not allowed to run the business and that the licence was cancelled and restored only after the aforesaid period was over. This court has in the case of Allahbaksh Ismail Ebrahim vs. Commissioner of Police and Ors reported in 2004(1) All MR 677 has taken a view that mere non compliance of a condition of licence cannot justify for cancellation of the licence. The Learned Judge has held in the said judgment that late closure is not such a breach of the condition entailing the consequence of cancellation of licence. In the light of the aforesaid judgments of this court I am of the opinion that the order passed by the Minister dated 22.6.2004 is bad in law apart from the fact that there are two breaches of late closure and that

there are no other charges levied against the petitioner. Thus I am of the view that severe penalty should not be imposed for late closure on the aforesaid two days. The cancellation of licence for about three months is sufficient punishment for breaches of late closure on two occassions. Petition is made absolute accordingly. No order as to costs. The impugned order is therefore quashed and set aside. Learned counsel for the petitioner states that the suit which was pending in City Civil Court being 501 of 2004 is already been withdrawn and if the same is not withdrawn, the same will be withdrawn immediately.

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